



State of Utah

GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor
NEAL T. GOOCH
Insurance Commissioner

Insurance Department

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: August 6, 2012

Time: 9:00 AM

Place: East Bldg, **Spruce** Room

MEMBERS

(Attendees=x)

COMMISSION MEMBERS

xChair, Larry Turner Blake, *Washington, Cnty* xJerry M. Houghton, *Tooele Cnty*
xCo-Chair, Kirk Smith, *Weber Cnty* xDirk Keyes
xCortlund G. Ashton, *Salt Lake Cnty*

DEPARTMENT STAFF

xPerri Babalis, *AG Counsel* xBrett Barratt, *Deputy Comm.* xMark Kleinfield, *ALJ*
xSuzette Green-Wright, *MC Dir.* xTammy Greening, *Examiner* Adam Martin, *Examiner*
xJilene Whitby, *PIO Recorder* xRandy Overstreet, *Licensing Dir.*

PUBLIC

Pete Stevens	Carol Yamamoto	David Moore
Clayton Hansen	Mike Smith	Lincoln Scoffield
Blake Heiner	Al Newman	Art Hunsaker

MINUTES

General Session: (Open to the Public)

- **Welcome** / Larry Blake, Co-Chair
Larry began the meeting at 9AM.
- **Adopt Minutes of Last Month's Meeting**
Motion by Cort to approve the minutes, seconded by Jerry and the vote was unanimous.
- **Reports**
 - **Concur with Licensee Report** / Tammy
Motion by Cort to approve the Licensing Report.
Tammy answered question about what the department checks on when the Licensing Division receives a new agency application. She verifies that new licensees are also licensed through the Commerce Division, have a physical facility location (and not just a PO box), that the applicant has the requisite experience, and verifies the location for co-habitation of office space.
Dirk seconded the **motion** and the vote was unanimous.
 - **Concur with Complaint & Enforcement Reports** / Suzette
Suzette reported that most of the new activity was the result of lapsed licenses.
 - Cort asked for more information on 60974. They had no physical address. Tammy will provide more information. She said that they can reinstate if they complete all requirements.
 - Tammy reminded them that renewals are emailed 75 days prior to the renewal date. Update email address by going to Sircon. Rule R590-258 requires licensees to maintain a valid email address with the state. **Motion** by Dirk to concur with the report, Cort seconded it and the vote was unanimous.
 - **Request for Dual Licensee Expedited Request:** Tammy reported that she received a dual licensing request and processed it.

- **Attorney Exemption:** Michael J. Arrett
Tammy reviewed the application with the Producer Licensing division. **Motion** by Cort to concur, seconded by Dirk and vote was unanimous.
- **Administrative Proceedings Action / ALJ**
 - **Stipulation & Order:**
 - **Courtney K. McCann:** Docket 2012-113 PC
Individual license lapsed May 2011 and was reinstated January 2012. While lapsed 29 closings were completed. Recommended forfeiture of \$1,500. **Motion** to approve recommendation, seconded by Jerry, vote was unanimous.
 - David asked if the recommended penalty was based on the length of time the license was lapsed or just the number of closings done. Gale Lemmon would have to answer that.
 - Why didn't the Department go after the agency? Suzette noted that enforcement on the agency if any may come at a later date.
 - **Request for a Hearing: Absolute Title Ins. Agency, Bridgette R. Lloyd, and Mathew S. Lloyd: Ecase 3115**
Mark asked if the Commission wanted to hear this case or delegate it to him. **Motion** by Cort for the Commission to hear it either during the November or December's meeting, seconded by Kirk and the vote was unanimous.
 - **Order on Motion:**
 - **Informal Adjudicative Proceeding & Order:** None
 - **Formal Adjudicative Proceeding:** None
- **Old Business**
 - **Discuss Definition of Real Estate Escrow Settlements & Real Estate Closings / Cort**
Cort did not receive comments regarding the proposed changes. He asked if it could be put into the department's bill. Brett will work with Commissioner to determine which definition to endorse then will get Title Commission's concurrence at the next meeting. Brett will work through Perri.
 - Al reminded the Commission that there were many things that involved escrow and not title insurance. We do not want a rule we will violate every day.
 - Pete wondered if other interested parties could be involved in the rulemaking. Larry suggested they provide a draft first. Cort suggested doing one reference per meeting.
 - **Action to be taken on Proposed Changes to Rule R592-16, "Agency Supervision by Qualifying Owner or Manager Rule"**
 - Kirk distributed to attendees copies of his proposed language. What is direct supervision? Does it need to be defined differently than mortgage or real estate have?
 - Cort questioned the application of 2(a). Kirk said it dealt with multiple agencies. Reviewed changes. Can still seek exemption above and beyond 3 qualifiers in rule. Cort suggested using it as a working draft.
 - Tammy asked if "qualified" in (2)(c) should be changed to "designated to."
 - Cort said changes to the rule would be allowed to lapse then they would start over.
 - Carol asked what qualified a manager to make the necessary decision. Cort said the legislature required them to have a minimum experience rule.
 - Al thought an unlicensed individual should be able to do title searches but reviews and searches should be done by licensed individuals. It was noted that the rule requires the search & examination to be done by a licensee. Al asked for the definition of a "producer." David said 31A-1-301 defines it. Pete said the definition does not say anything about doing a search. He suggested eliminating reference to "ownership records" and just address public records. Larry asked how long records had to be kept.

- Al said the underwriter approves the person who does oversight and he signs search records. Pete asked where in the rule it says what a minimum search is?
- Clayton said person must be licensed who signs policies. Person responsible for content and searches performed by or for the agency. That person is on the hook if there are problems with the search. No one signs policies unless they are licensed in title. The point is not that a licensed person does the search but that the person who signs off on it is a licensed, responsible person.
- Cort said the rule should allow those doing menial aspects of the search should not have to be licensed. The person signing off on it should be licensed. Maybe just state that search is done by someone with underwriter requirements.
- Tammy suggested changing the license name from “Title Search” to “Title Examination.” All agreed. Clayton noted that it was the same with processors who perform work up to a point and then licensee finishes it.
- Al suggested putting the countersignature information at the end instead of the beginning.
- It was noted that the underwriter was the one taking the risk. The rule is trying to build a wall around Utah and not allow out-of-state companies to work here. Tammy said it was an issue of being unlicensed and unauthorized, as per 31A-14-211.
- Cort said he was trying to create a rule regarding minimum mandatory and tie it to the statute as well as search and underwriter guidelines. The rule needs to specify the insurance products that must be signed by a licensee.
- David suggested cancelling paragraph (8). We have all the laws we need now. Pete agreed. Suzette suggested leaving (8) in and changing “Shall” to “May.”
- **Action to be taken on Proposed Changes to Rule R592-17, “Minimum Mandatory Search for a Real Estate Transaction”**
File changes at same time as R592-16.
- **Wording to Eliminate Conflicting Language Between 31A-2-404 & 31A-23a-204(6) / Perri**
Take off agenda. She will take care of it.
- **New Business**
 - **Use of the Term “Escrow” in Business Names / Brett**
No one is to use “Escrow” in their business name unless approved by Financial Institutions and Utah Division of Corporations as per 7-22-102 UCA. Currently 42 agencies have it in their name, 18 are licensed by the Insurance Department, and 4 of these are approved by Financial Institutions. These 18 licensees will be authorized and will not have to do anything. Brett provided a copy of the letter that will go to these 18 licensees and the one that will be sent to all title licensees to make them aware of the law.
 - **Legislation / Brett**
The deadline was last Friday to give the Commissioner legislative changes. They are going through them today. He encouraged the Commission to get their changes in as soon as possible. On October 1 the department’s bill will be sent to the Legislature for drafting.
 - **31A-23a-406 / Tammy**
Tammy thought the last paragraph about the settlement statements (HUD-1s) being acknowledged with a change prior to disbursement was eliminated by accident. Suzette said the language had been suggested by Canyon Anderson. No one remembered talking about it. Tammy said she could enforce this section without the last paragraph. Let her know if you want to keep this or not. Jerry suggested talking with Canyon. Tammy will see if this will create a substantial change.
- **Other Business:** None

- **Adjourn:** **Motion** to adjourn by Cort, seconded by Dirk at 11:10AM.
- **Next Meeting:** September 10, 2012, Spruce Room

2012 Meetings in Spruce Room

Jan 9	Feb 13	Mar 12	Apr 9	May 14	Jun 11
Jul 9	Aug 6	Sept 10	Oct 15	Nov 19	Dec 10